

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

FLATHEAD-LOLO-BITTERROOT  
CITIZEN TASK FORCE and  
WILDEARTH GUARDIANS,

Plaintiffs,  
vs.

STATE OF MONTANA,  
LESLEY ROBINSON, and  
GREG GIANFORTE,

Defendants,  
and

MONTANA TRAPPERS  
ASSOCIATION, OUTDOOR  
HERITAGE COALITION,  
MONTANA STOCKGROWERS  
ASSOCIATION, MONTANA WOOL  
GROWERS ASSOCIATION, and  
MONTANA FARM BUREAU  
FEDERATION,

Defendant-Intervenors.

CV 23-101-M-DWM

NUNC PRO TUNC  
ORDER

On April 23, 2024, the Ninth Circuit Court of Appeals issued an opinion and mandate resolving State Defendants' interlocutory appeal of this Court's November 21, 2023 Preliminary Injunction Order. (*See* Docs. 58, 59.) The Ninth Circuit affirmed the Court's issuance of injunctive relief but vacated the part of the

injunction that State Defendants argued was overbroad because it could be read to enjoin the State’s research activities and remanded for the Court to “make proper modifications to the [geographic] scope of its order.” (Doc. 58 at 31.) The parties filed additional briefing on the remand issue and agreed that the Court’s March 25, 2024 Order had clarified any concerns State Defendants had raised to the Ninth Circuit with respect to its scientific trapping efforts. (Docs. 72, 73, 74.)

As to the geographic scope, State Defendants insist that an appropriate geographic scope can only encompass the State’s “estimated occupied range of grizzly bears” map. Montana Trappers argue the Court should adopt the recommendation of the State Defendants.<sup>1</sup> Plaintiffs propose limiting the injunction to hunting districts that are fully or partially in the State’s estimated occupied area and fully or partially within the United States Fish and Wildlife Service’s 2022 “May Be Present” map, as well as hunting districts with verified grizzly bear sightings occurring in late 2021 through 2024. Plaintiffs’ recommendation includes all hunting districts in Montana Fish, Wildlife, and Parks Wildlife Management Regions 1, 2, and 3, as well as portions of Regions 4, 5, and 6, following recognized hunting district boundaries familiar to hunters where possible, and roads when bisecting hunting districts 621, 411, and 535. Plaintiffs

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<sup>1</sup> Because Agricultural Groups had not intervened before the Injunction Order was appealed, they did not provide a brief on the Ninth Circuit’s remand order.

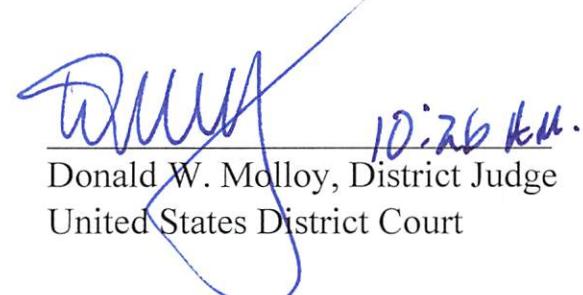
argue their recommendation significantly curtails the geographic scope of the present injunction to hunting districts with verified grizzly bear presence or those surrounded by hunting districts with verified grizzly bear presence, and includes areas essential for connectivity between recovery zones. *See Crow Indian Tribe v. United States*, 343 F. Supp. 999, 1004 (D. Mont. 2018) (“[T]he long-term health of the Greater Yellowstone grizzly depends on the introduction of new genetic material.”), *affirmed by Crow Indian Tribe v. United States*, 965 F.3d 662, 679 (9th Cir. 2020) (“[A] lack of genetic diversity continues to threaten the Yellowstone Grizzly.”).

The Court finds a middle ground is appropriate; one that is both narrower than its original injunction and Plaintiffs’ proposal and still protective of grizzly bears denning and traveling across large swaths of Western Montana that are not included in the State’s “estimated occupied range” map but are critical to establishing connectivity between recovery zones. Accordingly,

IT IS ORDERED THAT the geographic scope of the Court’s November 21, 2023 Preliminary Injunction Order is limited to the following areas: (1) all of Montana Fish, Wildlife, and Parks Wildlife Management Regions 1, 2, and 3; (2) all areas south of I-90 and west of Laurel along the border of U.S. routes 212 and 310; (3) all areas west of U.S. Highway 89 south of Great Falls; and (4) all areas west and north of U.S. Highway 87 from Great Falls to its intersection with

the border of Region 4 near Loma to the Canadian border. See the attached map for a visual reference of the Court's Order.

DATED this 29<sup>th</sup> day of August, 2024.

  
Donald W. Molloy, District Judge  
United States District Court